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TAGS: [EINV](#) [ENRG](#) [ECON](#) [PREL](#) [TU](#)

SUBJECT: BOT PROBLEMS STILL UNRESOLVED

REF: A. ANKARA 6144

[B](#). ANKARA 5811

[C](#). ANKARA 5646

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[1](#)1. (SBU) According to representatives from Enron and Doga (Edison Mission), the Turkish government is making no serious effort to resolve BOT problems, and the Energy Ministry (MENR) and Energy Market Regulatory Authority (EMRA) remain at odds on how to proceed. Enron's lawyer recently told EconCouns and Econoff that his latest discussions with the MENR have been futile, while Doga told us that they have not revisited the issue with the MENR recently. Although Enron is reluctant to start formal negotiations with the Turkish government, it remains engaged with the MENR and EMRA to develop a common approach to resolving the problem. Doga, on the other hand, seems content waiting for the MENR to act.

[1](#)2. (SBU) Enron's lawyers told us the MENR and EMRA had different demands from Enron. The MENR wants Enron to reduce its sales price and sets this price reduction as a precondition to EMRA's license release. EMRA, on the other hand, wants Enron to relinquish GOT purchase guarantees in its existing contracts.

[1](#)3. (SBU) Enron views the MENR as its contracting partner, not EMRA, believing that EMRA only has a monitoring role over BOT companies. As reported in Reftel B, Enron wants to receive the operating license from EMRA before starting negotiations with MENR on price and buy out options. Enron reportedly told the MENR that it is willing to use a stair-step-down approach to lower prices between 2004 and 2009 with the conditions that EMRA grants an unconditional license, and the GOT forfeits its 2009 buy out option. Enron officials claim that the MENR does not understand the contract; for example, MENR officials seemed surprised to learn that the government could buy out the company in 2009 for no money. Enron says an early buy out option would offer a quick fix to BOT problems, but Turkey does not have the financial means to implement this option.

[1](#)4. (SBU) In a separate meeting with Econoff and Econspecialist (Reftel A), EMRA officials denied the allegations that they were setting conditions to issue licenses to BOT companies. Instead, EMRA blamed the MENR for using licenses as leverage to negotiate lower electricity prices. According to EMRA, the BOT companies will eventually lower prices as the market forces are activated, and Turkey should not scare off the investors in the energy sector in an attempt to achieve a more competitive market with several participants over the longer term. Enron argues that BOT companies' operational costs would be higher if the market is less than 100 percent. Moreover, these companies would face difficulties meeting contractual obligations with suppliers in an uncertain market. BOT companies' lenders also are concerned about Turkey's changing regulatory environment, according to Enron.

[1](#)5. (SBU) From Enron's perspective, both EMRA and the MENR are intent on setting up a free market through eliminating long term contracts with price and purchase guarantees. Enron argues, however, that such a system would only be practical if there is flexibility in the market. According to

Enron, there is a buyer for every megawatt of electricity produced under the current system. Both EMRA and the MENR continue to blame each other for not taking action to resolve the problem in what Enron calls a bad cop and worse cop scenario.

16. (SBU) Enron told us that it wants to continue doing business in Turkey, but litigation is the only alternative if the government does not adopt a constructive approach to these problems. During the arbitration process, Turkey would still be obligated to pay the companies. Enron suggested, however, that both EXIM and OPIC could be exposed without a timely resolution.

17. (SBU) MENR Undersecretary Demirbilek recently confirmed to EconCouns that the Ministry continued to work on resolving Enron's licensing problem and was hopeful that they would reach a compromise soon. Demirbilek did not comment on the conditions EMRA allegedly set to issue licenses. On the Doga license, Demirbilek was less hopeful, saying there were serious outstanding difficulties.

18. (SBU) Comment. BOT problems are likely to remain bogged down by the bureaucracy unless someone in the Energy Ministry takes bold steps to reach a solution. Newly appointed bureaucrats in the Energy Ministry do not appear to understand BOT contracts and appear willing to wait until these companies to voluntarily lower prices. At the same time, anyone who acts to help a foreign investor could face corruption charges as evidenced in other cases. End Comment.
EDELMAN